

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CLAY MASSI,)	
)	
Plaintiff,)	
)	
v.)	No. 3:05-CV-425
)	(Guyton)
WALGREEN CO.,)	
)	
Defendant.)	

ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636(c), Rule 73(b) of the Federal Rules of Civil Procedure, and the consent of the parties, for all further proceedings, including entry of judgment [Doc. 11].

For the reasons set forth in the Memorandum Opinion filed simultaneously herewith, and based upon the entire record in this case, the defendant's Motion for Summary Judgment [Doc. 33] is **GRANTED**. Accordingly, (1) the plaintiff's claim that the defendant had a duty to pay for medical care for the plaintiff; (2) the plaintiff's claim for punitive damages arising out of the defendant's failure to pay for the plaintiff's medical care; and (3) the plaintiff's claim for outrageous conduct based on the defendant's failure to pay for the plaintiff's medical care or on the allegedly misfilled prescription are hereby **DISMISSED**. The matter shall proceed to trial on the following issues, as set forth in the parties' Pretrial Order:

(1) Whether the defendant Walgreen Co. negligently misfilled a prescription with Adderall and caused damage to the plaintiff;

(2) Whether the plaintiff is liable for comparative fault due to ingesting medication that did not match the description of the

medication in the bottle and was different from his six prior fillings of this medication; and

(3) Whether the plaintiff suffered any injury, if he ingested Adderall, and if so, what is the nature and extent of the plaintiff's injury.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge